
BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

IN RE THE APPLICATION OF:

FRANKLIN MCDEVIN HUGGINS

ORDER

Docket No. 2015-150 LC

Enf. no. 3707

Judge Gregory Soderberg, J.D.
Administrative Law Judge

BY THE PRESIDING OFFICER:

This matter is before the Presiding Officer on Franklin McDevin Huggins's application for an individual resident producer license. Mr. Huggins applied for licensure on November 25, 2015. His application was denied five days later by the Insurance Department, for untrustworthiness or financial irresponsibility, engaging in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public, and failure to meet the trustworthy character requirement. The Department's denial was based on Mr. Huggins's disbarment and revocation of license to practice law in North Carolina, where he mishandled entrusted client funds.

A formal hearing was held on this matter on January 13, 2016. The Department and Mr. Huggins presented evidence and argument, and now, being fully informed and for the reasons below, the Presiding Officer SUSTAINS the Department's Letter of Denial.

EVIDENCE AND ARGUMENT PRESENTED AT HEARING

The facts in this matter are not in dispute, although the Parties disagree as to how the facts should be interpreted and applied. Mr. Huggins was disbarred in North Carolina for having mishandled entrusted client funds. (Department Ex. 3-A and 3-B.) Mr. Huggins presented

evidence and argument that his actions were due to an undiagnosed bipolar disorder and depression, which is now being treated with medication. (Letter from Mr. Huggins, Ex. 4; Letter from Dr. David G. Timpson, Ex. 6.) Mr. Huggins also presented four letters from previous clients and other individuals he has worked with or known. (Ex. 7.)

Mr. Huggins argued that his actions in North Carolina were due to an undiagnosed bipolar disorder, and that he is in fact a trustworthy person. Mr. Huggins presented a letter from Dr. David G. Timpson, M.D., in which Dr. Timpson expressed his opinion that Mr. Huggins's actions were due to "the manic phase of bipolar disorder" and that when bipolar disorder is treated, "these symptoms stop completely." (Ex. 6.) Mr. Huggins presented letters from four individuals, all stating their belief that Mr. Huggins is a trustworthy person. (Ex. 7.)

The Department argued that, because of Mr. Huggins's actions in North Carolina, and notwithstanding Mr. Huggins's diagnosis and treatment, he should not be licensed as a resident producer in Utah.

FINDINGS OF FACT

I find by a preponderance of evidence the following facts:

1. The applicant, Franklin McDevin Huggins, applied for licensure as a resident producer on November 25, 2015.
2. Mr. Huggins's application was denied on November 30, 2015.
3. The Department stated that the application was denied for untrustworthiness or financial irresponsibility, engaging in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public, and failure to meet the trustworthy character requirement.
4. Mr. Huggins was disbarred in North Carolina on September 25, 2015. (Ex. 3-B.)

5. Mr. Huggins was disbarred because he mishandled client funds, including intentionally depositing entrusted client funds into his personal and business accounts, transferring entrusted client funds out of his attorney trust account and into his personal and business account without regard for whether he was entitled to the funds, and knowingly failing to track or account for his receipt and use of entrusted client funds. (*Id.*) These actions took place from April 2014 through March 2015. (*Id.*)

6. The North Carolina Court also stated that Mr. Huggins “should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity . . . until and unless expressly permitted . . . ” by subsequent court order. (Consent Order or Preliminary Injunction, Ex. 3-A, p. 2 ¶ 2.)

STANDARD

An applicant for a resident producer’s license must show that he is trustworthy. Utah Code Ann. § 31A-23-107(2)(a). The Commissioner of Insurance may deny a license application if the Commissioner finds that the individual, in the conduct of business in Utah or elsewhere, demonstrates untrustworthiness or financial irresponsibility, or engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public. *Id.* § 31A-23-111(5)(b)(xvi) and (xxiv).

CONCLUSIONS OF LAW

7. The record shows that Mr. Huggins demonstrated untrustworthiness and financial irresponsibility when he mishandled client funds as an attorney in North Carolina. Utah Code Ann. § 31A-23-111(5)(b)(xvi)(B). Mr. Huggins’s actions that led to his disbarment occurred less than one year ago, and according to the Order entered by the North Carolina Court, went on for almost a year. (Order p. 1 ¶ 3, Ex. 3-B.) Because Mr. Huggins’s actions: involved mishandling

client funds, occurred a short time ago, went on for a long period of time, and resulted in his disbarment in North Carolina, I find that Mr. Huggins has demonstrated untrustworthiness and financial irresponsibility. Utah Code Ann. § 31A-23-111(5)(b)(xvi)(B). I find that the evidence and argument Mr. Huggins presented, that his actions were due to an undiagnosed bipolar disorder, is unpersuasive in overcoming or explaining the evidence presented by the Department.

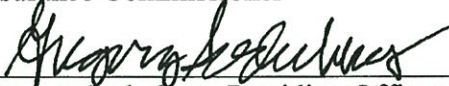
8. For the same reasons listed above in paragraph 7, I find that Mr. Huggins engaged in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public. *Id.* § 31A-23-111(5)(b)(xxiv). Mr. Huggins argued that customers and the public would not be endangered by his licensure, first, because he is a trustworthy person, and second, his contemplated work with American Income Life would not involve handling client funds, except for delivering checks to the agency. (Ex. 4.) However, as pointed out by the Department, the qualifications for licensure relate to all activities that a licensee can do, not what he will be doing. Further, Mr. Huggins's actions in North Carolina have broader implications as to Mr. Huggins's trustworthiness, and do not relate only to Mr. Huggins's handling of client funds.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Department's Letter of Denial is SUSTAINED.

DATED January 15, 2016.

TODD E. KISER
Insurance Commissioner



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ADMINISTRATIVE AGENCY REVIEW

Administrative Agency Review of this Order may be obtained by filing a Petition for Review with the Commissioner of the Utah Insurance Department within thirty (30) days of the date of entry of said Order consistent with Utah Code Ann. § 63G-4-401 and Administrative Rule 590-160. Failure to seek agency review shall be considered a failure to exhaust administrative remedies. Utah Admin. Code r.590-160-8; Utah Code Ann. § 63G-4-403.

JUDICIAL REVIEW

Judicial review of this Order may be obtained by filing a petition consistent with Utah Admin. Code r.590-160-8 and Utah Code Ann. § 63G-4-403.

CERTIFICATE OF SERVICE

On January 15th, 2016 a copy of the foregoing ORDER was sent to:

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